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SUPREME COURT, U. S.

No. 71-307

Supreme Court, U.S.
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In the Supreme Court of the United States

OCTOBER TERM, 1971

GERALD Y. ALLEN, PETITIONER

v.

UNITED STATES

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

ERWIN N. GRISWOLD,
Solicitor General,
Department of Justice,
Washington, D. C. 20530.

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MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

We invite the attention of the Court to the following facts, which show that the petition was filed out of time:

On May 21, 1971, the Court of Claims granted the government's motion for summary judgment and dismissed plaintiff's action on the ground that it was barred by the statute of limitation (Pet. App. "Exhibit A"). No extension of time for filing a petition for a writ of certiorari was obtained, and the petition was not filed until August 30, 1971, 101 days after

the Court of Claims dismissed the action. Since the 90-day period for filing a petition in 28 U.S.C. 2101 (c) is jurisdictional, the petition for a writ of certiorari should be denied.

Respectfully submitted.

ERWIN N. GRISWOLD,
Solicitor General.

SEPTEMBER 1971.

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